IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7655 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VINUBHAI BHUDARBHAI MISTRY

Versus

UMRETH NAGAR PALIKA

Appearance:

MR RA PATEL for Petitioner

None present for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 31/07/2000

ORAL JUDGEMENT

1. This matter was admitted after notice to the respondent on 21st February, 1994. On 1-11-1991, in this mater, the Court has been pleased to pass the following order:

Heard learned advocate Mr. Patel for the petitioner and the learned advocate Mr. Raval for Umreth Nagarpalika.

Considering the facts stated in the petition, till further orders it would be open to the petitioner to construct the building for which permission is granted by the Umreth Nagarpalika, at his own cost and risk. With regard to its user, appropriate order would be passed after considering the contention of the Nagarpalika that this land under the revised development plan is reserved in the residential zone. Till further orders, the petitioner would use the building which he may construct for non-residential purpose.

In view of the aforesaid order, if there is any injunction order granted by the trial court restraining the petitioner from constructing over the land in dispute, that order would not be operative.

2. It is not in dispute that the construction has been put on the land by the petitioner. Learned counsel for the petitioner states that the suit filed by the Nagarpalika for injunction against the petitioner to restrain him from raising any construction on the land has been compromised between the parties. Copy of compromised entered into between the parties has not been produced on the record.

3. Here is a case where permission has been granted to the petitioner for raising of the construction on the land in dispute by the Nagarpalika but subsequently, the same was cancelled on the ground that the petitioner is not the owner of the entire land. N.A. permission is also not obtained from the competent authority by the petitioner and on inspection of the site, it was noticed that even the user is changed for which no N.O.C. is obtained on his behalf. From the facts of this case, it appears that the Nagarpalika has filed the suit for injunction against the petitioner in this matter.

4. Looking to these facts and the order made by this Court whereunder the petitioner was permitted to put the construction and the construction has been completed, the interest of justice will be served in case this special civil application is disposed of in terms that the petitioner for his grievances made in this special civil application may make a detailed representation to the

respondent. Along with the representation, the petitioner to enclose all the necessary documents. This representation may be made within a period of one month from the date of receipt of certified copy of this order. This representation has to be considered by the respondent in accordance with law and in case where the decision given thereon is adverse to the petitioner the copy of the same may be sent to the petitioner and it may not be given effect to for 15 days. The petitioner, if he considers the decision to be adverse to him, he is free to approach to the redressal forum available in the matter. The special civil application and Rule stand disposed of accordingly with no order as to costs.

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zgs/-